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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

16 Cr. 376 (RMB)

5 ABDULRAHMAN EL BAHNASAWY,

6 Conference

7 Defendant.

8 -----x  
9 New York, N.Y.  
10 November 2, 2017  
11 9:30 a.m.

12 Before:

13 HON. RICHARD M. BERMAN,

14 District Judge

15 APPEARANCES

16 JOON H. KIM  
17 Acting United States Attorney for  
the Southern District of New York

18 NEGAR TEKEEI

GEORGE D. TURNER

Assistant United States Attorneys

19 DAVID E. PATTON

20 Federal Defenders of New York, Inc.

Attorney for Defendant

21 SABRINA P. SHROFF

-and-

22 ANDREW J. FRISCH

23 JASON D. WRIGHT  
24  
25

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(Case called)

THE COURT: Please be seated. You are ready to go?

MS. SHROFF: We are, your Honor.

I've turned over the file and Federal Defenders seek to be relieved at this time. There is a notice of appearance --

THE COURT: Well, well, well, we have a few preliminary issues before that can happen in my opinion.

But first I welcome, it's Mr. Frisch and Mr. Wright?

MR. FRISCH: That's correct, your Honor.

Good morning.

THE COURT: Good morning. Nice to see you.

And I think yesterday or very recently you had filed a notice of appearance in this case, is that right?

MR. FRISCH: That's correct. We filed a notice of appearance yesterday, your Honor.

THE COURT: So there are a few issues and I'm almost certain they are not going to be resolved all today but there are a few issues. You're certainly welcome to this proceeding. The status, just so you know, is I'm not relieving the Federal Defenders at this time. So we are going to have at least for the moment co-counsel.

Here are some of the issues that I think need to be resolved. First of all, we, earlier in these proceedings were aware, that you two, let's say defense counsel, incoming

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1 defense counsel, had the opportunity, were given opportunity to  
2 meet with Mr. El Bahnasawy while incarcerated and determine  
3 whether or not you are going to represent him because this  
4 issue has come up several times during the course of these  
5 proceedings. And then ultimately you wrote Mr. Patton the  
6 following letter on May 2, 2017. It says:

7 Dear Mr. Patton, thank you for facilitating meetings,  
8 plural, between your client -- which would be Mr. El  
9 Bahnasawy -- and me pursuant to his recent request. Based on  
10 my discussions with him and in light of the information  
11 provided to me, I wish to inform you that if so requested by  
12 your client, I would respectfully decline to represent him.

13 We wish you and your client the very best.

14 Signed, Jason Wright. And the heading of the letter  
15 is on the Law Offices of Andrew J. Frisch.

16 So I need to understand what is happening here since  
17 as I say we went back and forth. So that's one issue which  
18 goes really to Mr. El Bahnasawy's intention and interests in  
19 being represented by you.

20 I did also get as you know a letter for him that's  
21 dated September, I think it's 24. I'm not sure if I got the  
22 date right or maybe 27. But in any event, it says:

23 Dear Judge Berman, I'm writing this concerning the  
24 issue about my representation. My mom and dad came to visit me  
25 last Friday and were very distressed and sad about me not

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1 granting permission for added counsel Dennis Edney -- which by  
2 the way, we need to cover for Edney briefly -- Mr. Jason Wright  
3 and Andrew Frisch. My mom was crying and begging me and I feel  
4 too bad to be doing this to them.

5 I also now think that granting these lawyers, Dennis  
6 and his team, permission to enter the case by visiting me,  
7 talking in court and getting case files would be of no harm but  
8 actually to my benefit.

9 I also really don't want to see my parents in this  
10 horrible state. So I please ask you, namely me, to let Dennis  
11 Edney and his team enter the case alongside the Federal  
12 Defenders as was requested by them in their letter to the  
13 Court.

14 This would be greatly appreciated.

15 So I have had this case for a long time and we have  
16 had an extraordinary number of appearances and conferences and  
17 I think I have a fair -- more than a fair -- I have an intimate  
18 understanding of Mr. El Bahnasawy and the issues in this case  
19 and I just want to make sure that whatever I do protects the  
20 integrity of these proceedings going forward.

21 I should point out incidentally, as you probably know,  
22 I also took Mr. El Bahnasawy's plea on or about October 13,  
23 2016, and as you also know, we're heading to sentencing on  
24 December --

25 Ms. Shroff, correct me.

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1 MS. SHROFF: 12th, your Honor.

2 THE COURT: December 12, 2017.

3 Anyway, that's some of the background. So I need to  
4 be certain about Mr. El Bahnasawy's intentions and your own in  
5 light of the letter you've sent.

6 There is subtle issue. I don't know if subtle is the  
7 right word but a delicate one. As far as I'm concerned, Mr. El  
8 Bahnasawy can be represented by whomever he wishes. It's come  
9 up in the course of these conversations about adding new  
10 counsel or not adding new counsel, two themes. One is that he  
11 always said he was happy with Federal Defenders. And I have  
12 said it on the record many times that just in my observation,  
13 Federal Defenders as done everything conceivable that I've  
14 experienced that a defense lawyer could do for their client  
15 including through the plea. And the plea as I said on  
16 October 13, 2016 which I took myself and I thought then and  
17 think now is rock solid.

18 So I want to understand your role, the parents' role,  
19 woman you represent, if you represent the parents too, whether  
20 there's any conflict of interest between if you do -- which I  
21 think you do -- representing the parents and representing the  
22 son, if their interests are aligned or if there's any  
23 difference. So that's one issue that I need to have resolved  
24 rather soon.

25 MR. FRISCH: May I, judge?

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1 THE COURT: Yes. And could you just preliminarily  
2 tell me what, if anything, Mr. Edney, what role, if any, he  
3 plays because his name has come up along with the two of you  
4 and from time to time. So I don't know where he fits into the  
5 picture.

6 MR. FRISCH: So Mr. Edney is a lawyer in Canada who  
7 has expertise both with Canadian nationals and in these types  
8 of cases and he was essentially consulted by Mr. El Bahnasawy's  
9 parents with regard to issues regarding the defendant's  
10 citizenship in Canada. That's essentially his role.

11 THE COURT: So he is not entering the case?

12 MR. FRISCH: Correct.

13 THE COURT: And he represents the parents or has?

14 MR. FRISCH: My understanding is that he was brought  
15 in to consult with the parents for the defendant. And to the  
16 extent that our appearance is permitted in the case, it may be  
17 that Mr. Edney becomes a member of our team. But that's the  
18 background of how he came to be involved.

19 THE COURT: OK. But he, correct me if I'm wrong, was  
20 probably contacted as you were by the parents in the first  
21 instance?

22 MR. FRISCH: I believe that's correct.

23 THE COURT: Not by Mr. El Bahnasawy?

24 MR. FRISCH: That's my understanding.

25 Your Honor, we're aware that there have been

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1 discussions over many months about the defendant's  
2 representations and who would represent him. We made ourselves  
3 available. And we are aware that there have been discussions  
4 and his own thinking as to who he wanted to represent at a  
5 particular point in time.

6 We have made ourselves available as your Honor knows  
7 for the correspondence with the Court and, essentially, have  
8 allowed ourselves to be guided by what his particular interests  
9 are even putting aside what his parents' interests may be.  
10 Most recently he has told us unequivocally that he wishes  
11 Mr. Wright and me to represent him and that's what brings us  
12 here today.

13 THE COURT: Right. So that's the change that is  
14 causing you to sort of reverse course that you set forth in the  
15 letter of May 2, 2017 to me?

16 MR. FRISCH: That is correct.

17 THE COURT: Or to Mr. Patton.

18 MR. FRISCH: That is correct. It's a question of the  
19 defendant's change of heart and his intent and his desires. We  
20 have been guided by those things.

21 THE COURT: OK. And what is your role, if any,  
22 vis-a-vis the parents or the family? Do you represent them as  
23 well?

24 MR. FRISCH: We have represented them. We continue to  
25 represent them as parents looking out for their son. That's

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1 the extent of our representation of them.

2 THE COURT: Right. And so I'm not going to resolve  
3 this today but so, you don't perceive that there is any  
4 conflict in or potential conflict in your role as counsel for  
5 the parents and also counsel for the son? I say that,  
6 particularly, in light of -- incidentally, this case had been  
7 under seal and the precipitating factor of one of them in my  
8 mind for unsealing the case was this change or these letters  
9 about counsel. And of course counsel asking to be able to see  
10 the case file which we have started to make available to  
11 everybody because we've unsealed the case and the case is now  
12 public.

13 So in that file which you no doubt have seen, you've  
14 seen what I have seen which is Mr. El Bahnasawy even up until  
15 the time and including in his letter having an attachment for  
16 Federal Defenders and Ms. Shroff. And in particular he is  
17 asking in his letter to let you all come into the case but also  
18 he says "alongside the Federal Defenders". So I don't know if  
19 that's possible or feasible or how that works. So those are  
20 two of the issues that I think need to be resolved ASAP and I  
21 don't know that they are going to get resolved today.

22 MR. FRISCH: Understood, judge. I perceive no actual  
23 or potential conflict with regard to the parents. I might add  
24 that their flight is late landing at LaGuardia this morning.  
25 Otherwise, they'd be here personally and they may still get



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1 here in time.

2 And there plainly has been an evolution of thinking in  
3 Mr. El Bahnasawy's thoughts about his representation. We  
4 appreciate that all. We can report to the Court is that his  
5 interest in having us represent is unequivocal as far as we  
6 know and hence, the filing of a notice of appearance.

7 THE COURT: Are you planning to be co-counsel with  
8 Federal Defenders as he requested in his letter to me dated  
9 September 27, 2017?

10 MR. FRISCH: I understand that is something that he  
11 requested in the past but I do not believe that's his desire  
12 now and so it is not --

13 THE COURT: That's what it says in that letter.

14 MR. FRISCH: I understand.

15 THE COURT: Do you think that's changed?

16 MR. FRISCH: I believe that's changed, judge?

17 MS. SHROFF: May I be heard briefly?

18 THE COURT: Yes. Sure.

19 MS. SHROFF: Your Honor, I cannot agree with some of  
20 the factual statements made by Mr. Frisch here today. But I  
21 think at end of the day the Federal Defenders of New York will  
22 not be able to be co-counsel with private counsel. I do not  
23 believe that's appropriate given the Federal Defenders'  
24 commitment no serving and working for people who cannot afford  
25 private counsel.

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1           Our office has turned over the file. We have given  
2           them, new counsel, all of the paperwork already. Should there  
3           be something we're missing, I'm sure they can reach out to us  
4           or the government, complete their file and move on and  
5           hopefully represent Mr. El Bahnasawy to his content.

6           THE COURT: Yes. So you've heard there's one issue  
7           that I must get over which is there's been equivocation in this  
8           case and that needs to be resolved and the issue of potential  
9           conflict. I'm not saying there is one but, historically, as  
10          you all have recognized, there has been a difference of opinion  
11          between the parents and Mr. El Bahnasawy. Maybe that's now  
12          totally resolved. I don't know, we certainly have to pursue  
13          that.

14          So that's where things stand.

15          MS. SHROFF: Your Honor, Mr. El Bahnasawy is allowed  
16          to choose his counsel because he wants to please himself and  
17          his parents. He is really allowed to consider doing something  
18          because he values how his parents would react.

19          And frankly, Mr. El Bahnasawy deserves that kind of  
20          finality. He's a young man. He is certainly very dear to our  
21          to office and we want nothing but the best for him and letting  
22          him proceed with private counsel at this point would actually  
23          stop the kind of back and forth that is truly troublesome for  
24          such a young man

25          THE COURT: Yes, just because it's easiest.

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1 MS. SHROFF: No.

2 THE COURT: And I'm not suggesting we're not going to  
3 get there but we are definitely methodically want to know  
4 whether there's a change and the change is definitive and  
5 whether or not there is a conflict situation.

6 For example, Ms. Shroff, suppose there were a  
7 conflict, then what, for the point of view of Federal  
8 Defenders?

9 MS. SHROFF: You mean if there were a conflict?

10 THE COURT: Yes. If I did what you say, dropped you  
11 out of the case, you're going gone and it turned out that there  
12 is some -- and I'm not suggesting there is by the way. There  
13 may, in my mind I could see that it needs to be discussed, then  
14 you come back or you don't come back?

15 MS. SHROFF: It happens all the time.

16 THE COURT: What, you come back?

17 MS. SHROFF: Sure. If the Court finds that there's a  
18 conflict, should Mr. El Bahnasawy decide it's in his best  
19 interests to have his old lawyers back, assist more with  
20 private counsel, all of those are options available to him.

21 But personally, your Honor, having been in this  
22 predicament, I fully understand for the client's sake -- and  
23 there is no one who matters more than the client -- it is best  
24 for him to allow him to proceed with the lawyers who are  
25 sitting with him at this table.

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1 THE COURT: I'm not suggesting that won't be the  
2 outcome but there are some steps that have to be taken before  
3 then.

4 MS. TEKEEI: Your Honor, if I may, as the Court is  
5 aware, the government takes no position, whatsoever, on the  
6 matter of the defendant's choice of counsel beyond making sure  
7 that the defendant's been made aware of his rights. We note  
8 that as the Court is aware, he has had court appointed counsel  
9 since his first appearance. We are not aware of any change in  
10 his financial condition that would enable him to pay for  
11 retained counsel. And so as it is the case that a third party  
12 is paying for the defense counsel, we suggest as in the  
13 ordinary course that the Court, that a Curcio hearing be held  
14 so that the Court can assess whether there is a potential  
15 conflict with respect to the third party payor issue.

16 THE COURT: I think you're absolutely right and that  
17 is going to be the outcome of today's proceeding. We are going  
18 to set a date for such a hearing and I'm going to ask everybody  
19 who wants to but ask them to do is to submit to the Court  
20 questions that they would like. Because it's in everybody's  
21 interests, Mr. El Bahnasawy's, proposed new defense counsel,  
22 Federal Defenders, the government and the Court and the  
23 integrity of these proceedings, that we continue. I think  
24 we've done things pretty methodically up until now but we just  
25 as we're heading toward the December 12 sentencing that we get

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1 it right as it were and that is my determination.

2 MS. SHROFF: Your Honor, there is no way Mr. El  
3 Bahnasawy may proceed to sentence by December 12 given this  
4 flux.

5 THE COURT: You're saying so many contradictory  
6 things, Ms. Shroff. You are saying you want out and you are  
7 saying you want them in and they should be in and now you're  
8 arguing that Mr. El Bahnasawy can't do a December 12. That's  
9 what the record says at the moment. It says we are going to  
10 sentence on December 12. So before that gets disrupted we have  
11 to make sure that everybody knows what they're doing and not  
12 doing something just because it's expedient just because I want  
13 to please my mother or you want to please Mr. El Bahnasawy or  
14 whatever, whatever.

15 So there does have to be a Curcio hearing. It does  
16 have to involve the questions of third party payor but it has  
17 to fundamentally have the questions that need to be asked and  
18 answered with respect to previous changes of heart. And not  
19 only changes of heart but as recently as Mr. El Bahnasawy's  
20 September 27 letter is a statement that he wants new counsel  
21 alongside the Federal Defenders. So all of that has to be  
22 fleshed out. I could do it quickly. I probably could do it  
23 really next week. But I do need to see questions. And defense  
24 counsel I would like to have them submit questions that they  
25 want me to pose and you as well, Ms. Shroff.

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1           So I'm not granting outgoing status to Federal  
2   Defenders. We do have and we welcome counsel here but we have  
3   to do this in the correct way.

4           (Continued on next page)

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1 MR. FRISCH: Can I be heard on one issue, Judge?

2 THE COURT: Sure.

3 MR. FRISCH: I think under the circumstances --

4 THE COURT: You understand, by the way, I'm not making  
5 any comment in any way disparaging your role.

6 MR. FRISCH: We completely understand, Judge.

7 THE COURT: Appreciate that.

8 MR. FRISCH: There's no question that an appropriate  
9 inquiry of Mr. Bahnasawy needs to be made in light of the  
10 inconsistent statements, and we're saying it's completely  
11 understandable; we're completely on board by that. To the  
12 extent that we can help by proposing questions in advance,  
13 we'll certainly participate in that exercise.

14 With regard to a Curcio, government counsel told me  
15 before we started today about their view that when a third  
16 party pays for fees, there necessarily needs to be a Curcio  
17 hearing. I've been doing this for 30 years, and I don't  
18 purport to know every aspect of the law, I don't think that's  
19 right. Counsel gave me a case, and they'll give me others if  
20 there are; I'm happy to look at them. I think parents of a  
21 defendant have the right to pay for the representation of their  
22 child without the need of triggering a Curcio hearing, so I'd  
23 ask the Court to give us an opportunity to look at the  
24 authority presented to us by the government so we can take a  
25 position on that.

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1           THE COURT: Whether we call it a Curcio, or whatever  
2 we call it, we are going to do inquiry with questions, and if  
3 third-party payor is an aspect of it, in my mind, because of  
4 the potential, based on the historical record, difference of  
5 opinion, let's say, and I don't know if it's a conflict of  
6 interest between Mr. Bahnasawy and his parents, but I know he  
7 had been very diligent in trying to walk the line of respecting  
8 his parents and doing what they wish, but I know historically  
9 he's also been very close to Ms. Shroff and the Federal  
10 Defenders and has always indicated to me that he likes having  
11 them as counsel. That's the thrust of the inquiry.

12           If the government has some questions that have to do  
13 with third-party payor, and I've asked questions along those  
14 lines in the past too, so be it. It doesn't hurt. It's really  
15 whose interests and what interests they have had or will have  
16 that I'm driving at.

17           And by the way, I don't recall, and it doesn't matter  
18 because it's history now, at the very, very beginning, when I  
19 got the case, the Federal Defenders was already attached. I  
20 don't know what, if anything, happened in magistrate's court,  
21 but I think that's historical, and I'm not concerned about  
22 that.

23           MS. SHROFF: Your Honor, we were just assigned as  
24 regular --

25           THE COURT: Yes, that's what I assume.



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1           Let's assume, hypothetically for the moment, that we  
2           get over this by this inquiry that we do and we move forward,  
3           do you have any plan, based on what you've seen so far in the  
4           record, of what you want to do? We do have the sentencing on  
5           for December 12. It was extended. It was an earlier date at  
6           one point, but I think it was extended at the request of  
7           Federal Defenders.

8           MR. FRISCH: Your Honor, we understand the Court's  
9           interest and the government's interest in expedition. There is  
10          a date set for sentencing of December 12, and we realize that.  
11          At the same time, we just received from the Federal Defenders a  
12          flash drive, which I understand contains the file, their file,  
13          whatever discovery was provided, and certainly we need to  
14          review that before we can take a position as to scheduling.

15          What we would propose is to give us an opportunity to  
16          look at the file and the discovery, appear before the Court  
17          again, after the inquiry that your Honor described, appear  
18          before the Court as scheduled on December 12 and report to the  
19          Court where we think we are with regard to scheduling,  
20          understanding the Court's interest in moving quickly.

21          THE COURT: OK.

22          MS. SHROFF: Your Honor, the file was also turned over  
23          yesterday. Mr. Bahnasawy has a complete copy of the file in  
24          its entirety.

25          THE COURT: Yes, I understand. I think I may have in

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1 one of my endorsements suggested that you start looking at the  
2 file as I was unsealing it and as the records were becoming  
3 available to you. But there probably are, no doubt, more and  
4 obviously you should have every opportunity to know everything  
5 that's happened in the case if you're going to be counsel in  
6 the case, as you are. That's my preliminary thinking.

7 I would like the government to submit questions that  
8 they want posed vis-à-vis the counsel situation. It would be  
9 helpful if those questions went beyond just the financial  
10 "who's paying" thing, but also the issues that I've surfaced  
11 which are potential conflicts of interest or expressed  
12 differences of opinion in the past and also incoming counsel's  
13 earlier, May 2 letter saying that they would respectfully  
14 decline to represent him, even if he asked. That's a big  
15 change, so I would like to make sure we just get everything  
16 narrowed down.

17 MS. TEKEEI: We can certainly do that, your Honor.  
18 When would you like to have those questions?

19 THE COURT: What's realistic for you to be able to do  
20 your share of that?

21 MS. TEKEEI: We can have something by the end of the  
22 week.

23 THE COURT: Great. Do you all anticipate filing  
24 questions you would like me to ask? I think it would be in  
25 everybody's interests to be as thorough in this proceeding as

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1 possible.

2 MR. FRISCH: I think, your Honor, it might be a good  
3 idea if the government and we work together.

4 THE COURT: Fine.

5 MR. FRISCH: We may not come to agreement on every  
6 question, but perhaps that should be our first step, to see if  
7 we can agree, and then if we can't, we can submit those  
8 letters.

9 THE COURT: Supplement, OK. How much time do you  
10 need? They'll have questions available by the end of the week.

11 MR. FRISCH: It seems to me we can confer with them in  
12 the next few days and hopefully get something to your Honor by  
13 the end of the week.

14 THE COURT: I think that would be tomorrow.

15 MR. FRISCH: That would be tomorrow. I think we can  
16 do it.

17 THE COURT: OK.

18 MS. TEKEEI: We can submit our proposed questions to  
19 defense counsel by the end of the day tomorrow, and hopefully  
20 then by Monday, we'll have a joint proposal for the Court as  
21 well as potential areas of conflict.

22 THE COURT: Likely I think we're talking about midweek  
23 realistically, for everybody.

24 Ms. Shroff, I can think of a scenario where it would  
25 be in your interest also to submit questions as you are exiting

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1 or seeking to exit the case, to make sure that all the T's are  
2 crossed and I's are dotted, but you don't have to.

3 MS. SHROFF: Your Honor, our office's position is  
4 whatever Mr. Bahnasawy wants, Mr. Bahnasawy should have. He  
5 has made clear to us as well for whatever reasons, reasons are  
6 immaterial, he wants to change counsel, and I don't think we  
7 will have any questions, but I'm happy to make myself available  
8 to the government and to incoming counsel so that our  
9 availability is present for the Court.

10 THE COURT: Great. Is it your understanding that he's  
11 changed his view even from September 27? He always in the past  
12 when the issue came up said at the very least sometimes he  
13 wanted to stay with Federal Defenders very definitively, and  
14 other times he said, and I think I understand this, by the way.  
15 I understand that he's responding to his family, and he's a  
16 young man, so that's not inappropriate, but he also always more  
17 often said that the best of all worlds would be to have both  
18 you and incoming counsel.

19 Has that changed, in your opinion?

20 MS. SHROFF: I do think that's changed, your Honor.

21 (Counsel and defendant conferred)

22 MS. SHROFF: I do think that's changed, and I  
23 honestly, genuinely believe the reasons are immaterial. If he  
24 wants to make a change, he should be allowed to make a change.  
25 And just let me say, finality is good for him.

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1 THE COURT: Yes, but I have somewhat of a different  
2 role and a different perspective, and expediency is not at the  
3 top of my list. Getting it right is No. 1. Respecting his  
4 wishes is also at the top of the list, but if you have any  
5 questions, it would be helpful to have you insert them in the  
6 government's or supplement.

7 MS. SHROFF: Sure.

8 THE COURT: OK.

9 MS. SHROFF: Your Honor, I want to say one thing.  
10 It's not expediency. I just want to say that, because he  
11 should be able to, it's good for him to resolve it. It's not  
12 expedience; it's for the client. That's all. I understand  
13 what the Court's saying, but look, given the schedule that  
14 you've set, I think this will be expedient anyway.

15 THE COURT: OK. If it is, so much the better, of  
16 course.

17 Are you available -- I hope you are -- Tuesday at 1  
18 p.m. for further hearing to pose the questions? Does that work  
19 in your schedules?

20 MR. FRISCH: Tuesday's what date?

21 MS. SHROFF: The 7th, Election Day, according to the  
22 calendar. Is that a holiday, or is that some other year?

23 THE COURT: It may well be. Is that a court holiday?

24 MS. SHROFF: I don't see it as a court holiday. It  
25 just says Election Day in my calendar, but I'm fine at 1L00.

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1 MR. FRISCH: November 7, I have an earlier appearance  
2 before Judge Wood, but I should be free by 1:00.

3 THE COURT: OK. She's in the building here. You mean  
4 Judge Wood be in the building here? You'll be in the building.

5 MR. FRISCH: I'm sorry, your Honor.

6 THE COURT: You'll be in the building for that  
7 appearance?

8 MR. FRISCH: Yes, your Honor.

9 THE COURT: Does 1:30 help you?

10 MR. FRISCH: It might be a prudent thing to put it on  
11 for 1:30.

12 MS. TEKEEI: Your Honor, the government will be  
13 prepared to proceed. I will note that part of government  
14 counsel will not be available at 1:00. Later in the afternoon  
15 would be better for us if the Court's schedule does permit  
16 that.

17 THE COURT: Could one of you be here at 1:30?

18 MS. TEKEEI: Yes, but both of us can't.

19 THE COURT: You both can't.

20 MS. TEKEEI: That's correct, your Honor.

21 THE COURT: Until when?

22 MS. TEKEEI: May I just have one moment, your Honor?

23 MR. WRIGHT: Your Honor, as well, during this brief  
24 recess, I will not be available on Tuesday at 1:30, but  
25 Mr. Frisch will be here.

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1 THE COURT: Is that OK?

2 MR. FRISCH: Yes.

3 MS. TEKEEI: Your Honor, obviously we don't want to  
4 impose on the Court's schedule, but 3:00 would be better for  
5 both of us.

6 THE COURT: I think I'm going to go with the 1:30. I  
7 always prefer to have all of you here, but I think we can  
8 accomplish what we need to accomplish on Tuesday at 1:30.

9 MS. TEKEEI: Thank you, your Honor.

10 THE COURT: I'm going to ask that by Monday at 3 p.m.  
11 I have all of your questions, either in one document or if  
12 there are supplements.

13 MS. TEKEEI: I'm sorry. What time was that, your  
14 Honor?

15 THE COURT: Monday at 3.

16 MS. TEKEEI: At 3?

17 THE COURT: Yes.

18 MS. TEKEEI: Thank you.

19 THE COURT: Has anybody got anything they want to add?

20 MS. TEKEEI: Your Honor, just for clarification,  
21 Mr. Frisch mentioned that he would like the December 12 date to  
22 be a status conference. The government obviously would like to  
23 proceed to sentencing as expeditiously as possible. We would  
24 like some clarity. We would like to prepare for sentencing and  
25 to be going forward with sentencing as quickly as possible, but

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1 in terms of what the Court intends to do, given that there are  
2 some deadlines coming up for submissions, if you could provide  
3 us with some clarity about what you think would happen on  
4 December 12.

5 THE COURT: As you're meeting and conferring with  
6 respect to these questions, maybe you could meet and confer  
7 with respect to what is anticipated in terms of dates and  
8 submissions, etc., etc., and maybe on Tuesday you could apprise  
9 me of that as well.

10 I don't know that you'll be able to go through that  
11 whole thumb drive between now and then, but you'll probably  
12 have a better understanding of how much time you need and what  
13 you are proposing to do in that time.

14 Is that fair?

15 MS. TEKEEI: We can do that, your Honor.

16 MR. FRISCH: And we'll do our best, your Honor.

17 THE COURT: All right.

18 I know there's something humorous that could be said  
19 here. Now, I don't know who would say it, Ms. Shroff or me,  
20 but I think it's better left unsaid.

21 I'll see you all on Tuesday at 1:30.

22 MS. TEKEEI: Thank you, your Honor.

23 MR. FRISCH: Thank you, your Honor.

24 MS. SHROFF: Thank you, your Honor.

25 (Adjourned)